

DECISION

Harrington
26041

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-212435

DATE: August 22, 1983

MATTER OF: Elliott Horne Contract Services Co.

DIGEST:

GAO has no authority to order the suspension of procurement proceedings or to stay an award of contract pending the Small Business Administration's review of the small business size standard used in the solicitation.

Elliott Horne Contract Services Co. protests any award of a contract under solicitation No. IFB N62467-83-B-2260, a small business set-aside for transportation, operation and maintenance at the Naval Air Station in Cecil Field, Florida. Elliott Horne believes that the solicitation's small business standard is not appropriate, and requests that the bid opening date be stayed until the Small Business Administration can determine the applicable standard. We dismiss the protest.

Our Office has no authority to order the withholding of an award in general, see Hoffman - Whitehead Co., B-208472, August 30, 1982, 82-2 CPD 186, or otherwise to require that procurement proceedings be delayed or suspended in this type of situation. According to the applicable regulations, if the contracting officer receives a ruling by the Small Business Administration's Size Appeals Board on an appeal of a solicitation's small business size standard before the bid opening date, the solicitation must be modified to reflect the ruling. Defense Acquisition Regulation § 1-703(c)(3) (1976 ed.). It is up to the contracting officer whether to delay bid opening to await a ruling, however, and that decision is within his broad discretion. See Baird Corporation, B-210136, December 20, 1982, 82-2 CPD 556. If the Size Appeals Board ruling is not received until after bids are opened, the ruling will not apply to the current procurement, but will have prospective effect only, so that it

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does not affect the legality of the award. See Contract Services Co., Inc., B-210551, February 22, 1983, 83-1 CPD 176.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel